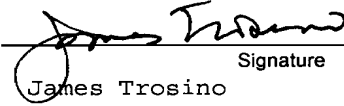
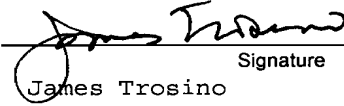
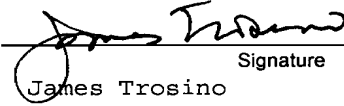


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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)							
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on _____</p> <p>Signature _____</p> <p>Typed or printed name _____</p>		Application Number	Filed						
		10/706,870	12-Nov-2003						
		First Named Inventor							
		Michael D. Mills							
		Art Unit	Examiner						
		2853	LAURA E. MARTIN						
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table border="0"><tr><td><input type="checkbox"/> applicant/inventor.</td><td rowspan="4"> _____ Signature James Trosino _____ Typed or printed name (415) 495-7750 _____ Telephone number 06-Dec-2006 _____ Date</td></tr><tr><td><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td></tr><tr><td><input checked="" type="checkbox"/> attorney or agent of record. 39,862 Registration number _____</td></tr><tr><td><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <table border="1"><tr><td><input type="checkbox"/> *Total of _____ forms are submitted.</td></tr></table>				<input type="checkbox"/> applicant/inventor.	 _____ Signature James Trosino _____ Typed or printed name (415) 495-7750 _____ Telephone number 06-Dec-2006 _____ Date	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<input checked="" type="checkbox"/> attorney or agent of record. 39,862 Registration number _____	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	<input type="checkbox"/> *Total of _____ forms are submitted.
<input type="checkbox"/> applicant/inventor.	 _____ Signature James Trosino _____ Typed or printed name (415) 495-7750 _____ Telephone number 06-Dec-2006 _____ Date								
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<input checked="" type="checkbox"/> attorney or agent of record. 39,862 Registration number _____									
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____									
<input type="checkbox"/> *Total of _____ forms are submitted.									

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Michael D. Mills et al.
Application No. : 10/706,870
Filed : 12 November 2003
For : IDENTIFICATION SYSTEM FOR INKS
: IN PRINTING SYSTEMS:
Group Art Unit : 2853
Examiner : LAURA E. MARTIN

Mail Stop AMENDMENT
Commissioner for Patents
P.O. BOX 1450
Alexandria, VA 22313-1450

STATEMENT IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW

Claims 1-4, 7, 9-11, 25-27, 29 and 30 are currently pending. Independent claims 29 and 30 (the only independent claims in this case) have been rejected under 35 U.S.C. § 103(a) as being obvious based on a single reference: Seino et al. U.S. Patent No. 6,361,138 (“Seino”). All other claims have been rejected under 35 U.S.C. § 103(a) as being obvious over Seino, sometimes in combination with one of Haines et al. U.S. Patent No. 6,808,255, Trafton et al. U.S. Patent Publication No. 2003/0043243 and Yoshimura U.S. Patent No. 6,019,461 (“Yoshimura”). Applicants respectfully submit that these rejections are clearly erroneous, and that the Examiner has failed to establish a prima facie case of obviousness. Applicants respectfully request that this Request be granted, and that the Examiner’s rejections be withdrawn.

Independent claims 29 and 30 recite printing systems and methods for use with printing systems that include a plurality of ink containers, each ink container including an ink and an associated tag, each tag including rewritable data that identifies

the manufacturing date of the associated ink. The 11 July 2006 Office action (the “Office Action”) acknowledges that Seino “fails to disclose a tag comprising rewritable data that identifies the manufacturing date of the associated ink.”

In fact, Seino expressly teaches away from the claimed invention. In particular, Seino describes an inkjet apparatus that includes ink cartridges 1 and 2 that include rewritable storage systems 32 and 42 that may be used to store a variety of data, such as (1) identifying data; (2) manufacturing date; (3) expiration date; (4) adaptable print apparatus identifying data; (5) ink capacity; (6) connection time data; (7) amount of remaining ink; and (8) maintenance data. (Col. 2, lines 43-48; Col. 3, lines 22-49). Although storage systems 32 and 42 are rewritable, Seino expressly states that some of the data, including the manufacturing date are stored when the cartridge is shipped from the factory, and are stored as “non-rewritable, fixed data.” (Col. 3, lines 30-39) (emphasis added).

Ignoring this express restriction, the Office action asserts that Seino teaches “a rewritable storage system, as well as storing a manufacturing date,” and then summarily concludes that “[i]t would have been obvious . . . to modify the storage means for the manufacturing data [sic] to make it rewritable in order to more easily reuse and refill old containers.” These statements fail to justify contradicting the express teaching of Seino, and fail to establish a prima facie case of obviousness

As the MPEP states, to establish a prima facie case of obviousness, three basic criteria must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references; (2) there must be a reasonable expectation of success; and (3) the prior art references must teach or suggest all the claim limitations. MPEP 706.02(j). The Office Action fails each of these criteria.

First, the Office Action has failed to identify a plausible suggestion or motivation to modify Seino. Seino clearly describes a system in which ink cartridges 1 and 2 include storage systems 32 and 42 that store some data in rewritable form, and yet store other data, including manufacturing date, in non-rewritable form. Nothing in Seino suggests that this clear distinction was somehow accidental or incidental. Indeed, a careful reading of Seino indicates that manufacturing date data is stored as non-rewritable data specifically so that the data cannot be modified post-manufacture.

In particular, certain data, such as the manufacturing date and expiration date, are specifically non-rewriteable so that the inkjet apparatus may properly operate. When ink cartridges 1 and 2 are coupled to print heads 16 and 17 in the inkjet apparatus, a control system 53 reads the manufacturing date and expiration date from storage systems 32 and 42 to determine whether the ink cartridges may be used for printing. If ink cartridges 1 and 2 exceed the expiration date, a message is displayed indicating that the ink cartridges cannot be used, and the printer waits for replacement of ink cartridges 1 and 2. (Col. 4, line 65 through Col. 5, line 4).

In addition, during an “ejection recovery” operation, print heads 16 and 17 are capped, and the time point at which this operation is performed is recorded to determine whether the time point is within the permissible service life counted from the manufacturing date. (Col. 6, lines 1-13). If the time point exceeds the permissible service life, a message is displayed indicating that the permissible service life has been expired, and a “strong recovery operation” is performed to forcibly discharge a large amount of ink from print heads 16 and 17. (Col. 6, lines 8-32).


Because Seino’s inkjet apparatus would be unable to properly determine whether the expiration date had been exceeded or if the permissible service life had expired if manufacturing date data could be rewritten, a person of ordinary skill in the art would not find any motivation to modify Seino, and would more likely be disinclined to modify Seino in the way that the Examiner has stated.

Second, the Office Action has failed to identify a modification that has a reasonable expectation of success. As previously stated, certain aspects of the operation of Seino’s inkjet apparatus depend on the manufacturing date data being stored as fixed, non-rewritable data. The Office action provides no explanation how Seino’s system could properly operate if the system were modified so that manufacturing date data could be rewritten.

Third, the Office Action has failed to identify prior art references that teach or suggest all the claim limitations. As previously stated, Seino expressly points away from the claimed limitation, and the Examiner has failed to present a convincing line of reasoning as to why a person of ordinary skill in the art would have found the claimed invention obvious in light of Seino’s express teachings that point away from the claimed invention.

Applicants should not be required to incur the time and additional expense of preparing and filing an appeal brief, and further prosecuting an appeal of the clearly erroneous rejections in this case. Accordingly, applicants respectfully request that this Request be granted, and that the Examiner's rejections be withdrawn.

Respectfully submitted,


James Trosino
Registration No. 39,862
Attorney for Applicants